

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

MARK ANTHONY CHRISTIANS,

Plaintiff,

vs.

NANCY CHRISTENSEN, Retired Unit Manager at Mike Durfee State Prison, Individual Capacity; LAURIE STRATMAN, Unit Coordinator at Mike Durfee State Prison, Individual and Official Capacity; DARIN YOUNG, Terminated Warden at SDSP, Individual Capacity; JESSICA COOK, Associate Warden at SDSP, Individual Capacity; DEREK EKEREN, Unit Manager at Jameson, Individual and Official Capacity; JENNIFER DRIESKE, Terminated Deputy Warden at SDSP, Individual Capacity; SETH HUGHES, Unit Manager at Jameson, Individual and Official Capacity; CATHY WYNIA, Special Security at SDSP, Individual and Official Capacity; AMBER PIRRAGLIA, Official Capacity, and RICHARD JOHNSTON, Official Capacity.

Defendants.

4:22-CV-04072-LLP

ORDER REQUIRING FULL APPELLATE
FILING FEE OR MOTION TO PROCEED
IN FORMA PAUPERIS ON APPEAL

Plaintiff, Mark Anthony Christians, an inmate in the custody of the South Dakota Department of Corrections, filed a pro se lawsuit under 42 U.S.C. § 1983. Doc. 1. On March 27, 2025, the Court issued a Memorandum Opinion and Order Granting Defendants' Motion for Summary Judgment and Ruling on Plaintiff's Miscellaneous Motions. Doc. 105. Plaintiff filed a notice of appeal to the United States Court of Appeals for the Eighth Circuit from the Court's March 27, 2025 Order. Doc. 107. Christians did not pay the \$605 appellate filing fee or file a motion to proceed in forma pauperis on appeal. Thus, the United States Court of Appeals for the

Eighth Circuit remanded the case for calculation and collections of the appellate filing fee pursuant to *Henderson v. Norris*, 129 F.3d 481 (8th Cir. 1997) (per curiam). Doc. 110.

Under the Prison Litigation Reform Act (PLRA), a prisoner who “brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). “[T]he assessment of appellate filing fees occurs upon the filing of a notice of appeal . . . and fixes responsibility for payment sooner rather than later of the fees in full.” *Henderson*, 129 F.3d at 484. “Irrespective of the court’s approach to the merits of the appeal, the prisoner’s liability for the full payment of the appellate filing fees under the PLRA continues until full payment has been made which may be long after . . . dispos[al] of the appeal.” *Id.* Pursuant to 28 U.S.C. § 1915(b)(2), a prisoner may pay the full amount of the filing fee in installments. Accordingly, it is

ORDERED that Christians must pay the full \$605 appellate filing fee and may do so by paying in installments. It is further

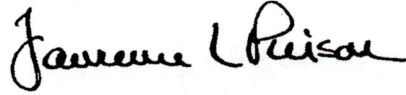
ORDERED that the Clerk of Court shall send Christians a blank Motion to Proceed Without Prepayment of Fees and Declaration and a blank Prisoner Trust Account Report form. It is finally

ORDERED that if Christians seeks to pay the appellate filing fee in installments, he must move for leave to proceed in forma pauperis on appeal and submit a certified prisoner trust account for the last six months on or before **May 19, 2025**. If Christians does not timely comply with this Order, the Court will calculate the initial appellate partial filing fee at \$35 or such other reasonable amount warranted by available information. After calculating the initial appellate partial filing fee, the Court will order payment of the full appellate filing fee pursuant to the

installment payment provisions of 28 U.S.C. § 1915(b)(2).

DATED this 18th day of April, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lawrence L. Piersol", written in a cursive style.

LAWRENCE L. PIERSOL
United States District Judge